IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 356 of 1999

For Approval and Signature:

HONOURABLE MS. JUSTICE R.M.DOSHIT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NAVNITBHAI CHUNIBHAI PATEL & 2 - Petitioner(s)
Versus
STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :
MR SHITAL PATEL for MR JAYESH M PATEL for Petitioner(s) : 1 - 3.
MS KIRAN PANDEY, AGP for Respondent(s) : 1 - 2.
Respondent(s) : 3 - 4 SERVED .
Respondent(s) : 5 DELETED ,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT

Date : 19/10/2007

ORAL JUDGMENT

This petition arises from the proceedings under the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947 (hereinafter

referred to as, **“the Act”**). The petitioners are the purchasers of the disputed lands. The petitioners challenge the order dated 3rd December, 1998 made by the State Government (Deputy Secretary (Appeals), Revenue Department) in Revision Application No.36/1997.

The subject matter of dispute in the present petition is the purchase of the land bearing Block No.111/2 admeasuring 14-Gunthas and the land bearing Block No.111/5 admeasuring 13-Gunthas of village Zundal, District Gandhinagar by the petitioners.

It appears that on 20th March, 1995 the petitioners purchased the aforesaid pieces of land from its then owner one Bholidas Patel. Admittedly, each piece of land was a fragment within the meaning of the Act. On 20th May, 1996, the Prant Officer issued notice under Section 9 of the Act stating that the transfer of the disputed lands was in violation of ban against the transfer of a fragment imposed by Section 7 of the Act and calling upon the vendor Bholidas Patel and the purchasers, the present

petitioners, to show-cause why the said transfer be not set-aside and why the vendor be not fined for the breach. The said notices were answered by the petitioners on 6th July, 1996. The petitioners explained that on 20th March, 1995 they had purchased five pieces of land from their owner Bholidas Patel. All the five pieces of land made one whole block of land larger than a fragment. The land purchased by the petitioners was not a fragment within the meaning of the Act. By order dated 30th June, 1996 made by the Prant Officer, the explanation given by the petitioners was not accepted. The sale of the disputed pieces of land was ordered to be set-aside and the fine of Rs.250=00 was imposed upon the vendor. Feeling aggrieved, the petitioners preferred Revision Application before the State Government, which came to be rejected by impugned order dated 3rd December, 1998. Therefore, the present petition.

Mr.Patel has submitted that the petitioners had purchased five pieces of land each of them in itself a fragment within the meaning of the Act. The notices under Section 9 of the Act came to be issued in

respect of the above referred two pieces of land Block No.111/2 and Block No.111/5. He has submitted that the purpose of the Act is to ensure that the lands are not divided in so small a piece that it becomes uncultivable. The purpose is to ensure that the lands are consolidated in larger blocks so as to make the cultivation more economical. In the present case, though the different pieces of land purchased by the petitioners bear separate block numbers, they form one whole block owned by one owner Bholidas Patel. All the pieces of land purchased by the petitioners form one whole block of land which is larger than the standard area specified under the Act. In support of this contention, the petitioners have placed the revenue record and the revenue map on the record. On perusal of the revenue record and the map, it is apparent that the pieces of land which were purchased by the petitioners from one single vendor Bholidas Patel formed one whole block of land larger than the standard area specified under the Act.

In above view of the matter, I am of the opinion

that the petitioners cannot be said to have purchased fragments in contravention of the Act. It appears that as the Prant Officer did not take into consideration the purchase of five pieces of land from one single owner, he was led to believe that what the petitioners purchased were fragments.

In above view of the matter, the petitioners cannot be said to have purchased a fragment within the meaning of the Act. The notices given under Section 9 of the Act were, therefore, uncalled for. The decision of the Prant Officer and the State Government are erroneous in as much as the authorities below have not considered the total area of the lands purchased by the petitioners and that the said pieces of land formed one whole block of land larger than the standard area specified under the Act.

For the aforesaid reasons, the impugned order dated 3rd December, 1998 made by the State Government in Revision Application No.36/1997 is quashed and set-side. The notices dated 20th May, 1996 issued

under Section 9 of the Act are also set-aside. Rule is made absolute. The parties will bear their own cost.

(Ms. R.M.Doshit, J.)

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